

REMARKS

The Office Action dated September 22, 2008 has been received and considered. Claims 1-3, 5-18, 20-25, 27-47, 49-62, 64-69, 71-84, 86-88 and 93-97 are pending. Claims 1-3, 5-25, 27-47, 49-69, 71-88 and 93-97 are rejected. No new matter is added. Entry of the amendments to the claims is respectfully requested. Claims 19, 63, and 85 have been cancelled without prejudice or disclaimer. Reconsideration of the current rejections in the present application is also respectfully requested based on the following remarks.

Response to Examiner's Remarks on Previous Arguments

On page 9, the Examiner provides remarks on Applicant's arguments ("argument A") responding to the § 102(e) rejections in the previous Office Action. The Examiner states "[i]t is obvious for the assignment of privileges and roles to each of the participants involved," and "while the express term 'privilege' and/or 'role' may not be found on those Figures, the drawings show, to one of ordinary skill in the art that the parties involved share some assignment of privileges and roles." (emphasis omitted).

The Examiner's arguments are based on obviousness principles, whereas the rejections were based on anticipation. Therefore, the Examiner's use of terms such as obvious and one of ordinary skill in the art is improper. To anticipate a claimed invention, the reference must show not only all of the limitations claimed but also all of the limitations arranged or combined in the same way as recited in the claim. See Net Moneyin v. Verisign, 545 F.3d 1359, 1369 (Fed. Cir. 2008). The Examiner has failed to rebut the Applicants' previous arguments.

On page 11 of the Office Action, the Examiner alleges that the Applicant's attempt at traversing Official Notice in the previous Office Action was inadequate. Applicant respectfully disagrees. First, in accordance with the MPEP Applicant stated the traversal on record

(“Applicant respectfully traverses the reliance on Official Notice. Applicant asserts that the Examiner’s reliance on Official Notice is not common knowledge or well known in the art.”). Second, Applicant specifically pointed out the supposed errors, with specific examples, as are in the record. The Office Action states “[i]f the traverse was inadequate, the examiner should include an explanation as to why it was inadequate.” The Examiner has failed to provide any explanation as to why the traverse was inadequate. The only remotely connected explanation is at the top of page 11 – prior to the remarks concerning the status of the traverse of Official Notice.

The Examiner, at the top of page 11, admits that Mahoney is related generally to loan origination. The Examiner alleges that “[w]hile draw requests may not be a typical part of the origination and underwriting process, they would be obvious to include for various intended uses or purposes.” This a vague assertion with no substantiation in the art. The Examiner’s own admission that draw requests may not be a typical part of the origination and underwriting process conflicts with asserting that the inclusion of draw requests would be well known or be common knowledge in the art “capable of instant and unquestionable demonstration as being well known.” See MPEP §2144.03(A).

Applicant Traverses the Reliance on Official Notice Concerning Draw Requests

Applicant respectfully traverses the use of Official Notice, specifically the Official Notice that it would have been obvious to include an option in Mahoney to facilitate draw requests. Applicant respectfully submits that such as option would not have been obvious as discussed above. There is no motivation or suggestion to include such an option in Mahoney. Mahoney fails to provide any mention of draw requests nor would it have been obvious to include draw requests in Mahoney. Including such requests would alter the basic principle of operation of

Mahoney and would involve substantial changes to implement such a feature. Further, draw requests are not part of the loan origination and underwriting process, an assertion admitted by the Examiner. Therefore, to include draw requests in Mahoney would not be well known or recognizable to one skilled in the art. Draw requests are used in the administration of the loan, following the approval and underwriting process, to distribute funds to parties involved in the loan, such as vendors associated with a construction project. Applicant requests that the Examiner provide documentary evidence supporting the Official Notice as alleged in the Office Action.

Applicants' traversal of the Official Notice extends to the variations of the Official Notice concerning draw requests alleged by the Examiner throughout the Office Action, specifically draw requests by line item (p. 4) and unit draw requests (p. 5). If draw requests are not obvious, then using specific variants of draw requests to render the claims unpatentable is therefore not obvious.

The Examiner's allegations are based upon improper hindsight of combining the elements of the claimed invention into Mahoney. The Examiner has failed to "set forth explicitly" the basis of reasoning the Official Notice and has not provided "specific factual findings predicated on sound technical and scientific reasoning to support" his conclusion. See MPEP §2144.03B. In the Examiner's own words "[w]hile draw requests may not be a typical part of the origination and underwriting process." This statement in the Office Action confirms the Applicant's position. If draw requests are not a typical part of the origination and underwriting process, how can the use of draw requests be capable of instant and unquestionable demonstration?

Applicant requests the Examiner retract the alleged admission of Official Notice as admitted prior art on the record. Applicants have not and are not admitting to the Examiner's assertion of Official Notice.

Rejections of Claims 1-3, 5-25, 27-47, 49-69, 71-88, and 93-97 Under 35 U.S.C. § 103(a)

On pages 3-8 of the Office Action, claims 1-3, 5-25, 27-47, 49-69, 71-88, and 93-97 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent 7,287,008 ("Mahoney"). This rejection is respectfully traversed.

Mahoney Fails to Render Independent Claim 1 Obvious

Regarding independent claim 1, Mahoney does not disclose "assigning one or more of privileges and roles to each of the one or more participants." Applicant maintains the position (from the previous Office Action) that Mahoney fails to disclose this element or render this element obvious. Figure 11 depicts "an example of a deal analysis screen." Col. 11, line 16. Figure 12 depicts "an example suite of loan application screens." Col. 11, lines 36-37. Neither Figure depicts *assigning privileges and roles* to each of the participants. These Figures merely disclose information screens regarding the deal and loan. The terms *privileges and roles* are not found on these Figures, nor in the text of Mahoney. The only *participant* shown is in Figure 12 ("Borrower"). No other participants are depicted. There is no suggestion or motivation to add such an element to Mahoney. Doing so would require substantial modifications and changes to Mahoney's disclosure. Further, the Examiner fails to provide any indication of how Mahoney discloses the elements of *assigning* and the *one or more privileges or roles*. Therefore, Mahoney fails to disclose or render obvious this element of the claimed invention.

Despite Applicant disagreeing with rejection of independent claim 1, Applicant has amended independent claim 1 to further clarify the claimed invention. Support for the

amendments are found at least on page 33, line 16 through page 34, line 12 of the present application. Further, the amended elements were found in claim 19, an original claim.

Applicant respectfully submits that independent claim 1 as amended is patentable over Mahoney. The Examiner failed to provide a substantive basis for rejection of claim 19 in the Office Action. On page 6, the Office Action alleges that “Claims 19 and 20 parallel the limitations of claims 3 and 11. As such Claims 19 and 20 are rejected under the same basis as are Claims 3 and 11 as mentioned supra.” Applicant notes that claims 3 and 11 recite “accessing collateral data associated with the at least one loan” and “wherein collateral data comprises one or more of plan type, status, sales price, amount complete and remote cost data,” respectively.

Claim 19 recites

- specifying one or more triggering events associated with the at least one loan;
- specifying one or more contacts to be notified at an occurrence of the one or more triggering events; and
- specifying one or more preferred modes of notification for the one or more contacts at the occurrence of the one or more triggering events.

Claim 20 recites “authorizing one or more participants for collaboration; and assigning one or more of roles and privileges for collaboration to each participant.” The elements of claims 3 and 11 differs from claims 19 and 20 and, therefore claims 3 and 11 are unrelated to claims 19 and 20. The Examiner has failed to allege how Mahoney discloses the elements of these claims.

As noted above, claim 19 has been cancelled and the subject matter amended to independent claim 1. Applicant submits that Mahoney fails to render the subject matter of former claim 19 (now incorporated into claim 1) unpatentable. Specifically, Mahoney, fails to disclose “one or more triggering event associated with the at least one loan.” Indeed, Mahoney fails to provide any disclosure of triggering events *associated* with the at least one loan.

Mahoney Fails to Render Independent Claims 23, 45, 67, and 93-96 Obvious

Independent claims 23, 45, 67, and 93-96 recite similar elements to independent claim 1, therefore the arguments above apply to claims 23, 45, 67, and 93-96 also. Therefore, claims 23, 45, 67, and 93-96 are allowable at least for the reasons given for independent claim 1. Further, Applicant has amended claims 23, 45, 67, and 93-96 in a similar manner to independent claim 1. Applicant submits that claims 23, 45, 67, and 93-96 are allowable over the cited art, alone or in combination. Applicant respectfully requests the withdrawal of the rejections thereof.

No Basis of Rejection is Provided for Independent Claim 97

As noted in the Office Action, Mahoney fails to recite draw requests. The Examiner alleges that Official Notice renders draw requests as an obvious modification to Mahoney. The Examiner cannot rely on Official Notice as discussed above, because the Examiner has not followed the rules in using Official Notice and the subject matter asserted through Official Notice is not capable of instant and unquestionable demonstration as being well known as required by MPEP §2144.03.

Further, claim 97 recites elements distinct from claim 1. For example, claim 97 recites:

a draw module for:

(a) submitting one or more draw requests against the at least one loan, wherein the draw requests comprise one or more of a line item draw, an existing residential draw, or a new unit start draw;

(b) processing the draw request; and

(c) sending a draw package request, wherein the draw package request comprises one or more of a request for invoices and lien waivers.

On page 8, the Office Action rejects claim 97 under the same basis as claim 1. However, as can be seen by the above recitation from claim 97, independent claim 97 is distinguishable from independent claim 1. The Office Action has failed to provide a specific rejection basis for independent claim 97, forcing the Applicant to speculate on the basis for rejection. Applicant

submits that claim 97 is patentable over the cited art and requests the withdrawal of the rejection thereof.

*The Dependent Claims are Allowable at Least
by Virtue of their Dependency on the Independent Claims*

Claims 2, 3, 5-22, 23-25, 27-44, 46, 47, 49-68, 69, and 71-88 are dependent upon one of independent claims 1, 23, 45, and 67. Therefore, since claims 1, 23, 45, and 67 are allowable over Mahoney as discussed above, claims 2, 3, 7-17, 19-22, 24-25, 29-35, 37-39, 41-44, 51-57, 59-61, 63-66, 69, 73-79, 81-83, 85-88 are allowable at least by virtue of their dependency upon one of independent claims 1, 23, 45, and 67.

Therefore, based on the above arguments, Applicant respectfully submits that all claims are in condition for allowance and indication thereof is respectfully requested.

CONCLUSION

In view of the foregoing amendments and arguments, it is respectfully submitted that this application is now in condition for allowance. If the Examiner believes that prosecution and allowance of the application will be expedited through an interview, whether personal or telephonic, the Examiner is invited to telephone the undersigned with any suggestions leading to the favorable disposition of the application.

It is believed that no fees are due for filing this Amendment. However, the Director is hereby authorized to treat any current or future reply, requiring a petition for an extension of time for its timely submission as incorporating a petition for extension of time for the appropriate length of time. Applicant also authorizes the Director to charge all required fees, fees under 37 C.F.R. §1.17, or all required extension of time fees, to the undersigned's Deposit Account No. 50-0206.

Respectfully submitted,

Date:

12/15/08



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